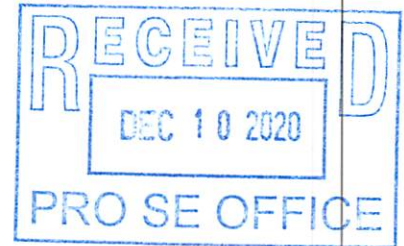


HONORABLE EDWARD
R. KORMAN
UNITED STATES DISTRICT JUDGE
EASTERN DISTRICT OF N.Y.
225 CADMAN PLAZA

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.
★ DEC 10 2020 ★

BROOKLYN OFFICE



Re: UNITED STATES V. SERGE EDOUARD
DOCKET NO. 05-400 ERK

I TRULY THANK YOU FOR ALL YOUR EFFORTS IN THIS MATTER,
HOWEVER WHAT STAY UNCOMPREHENSIBLE. AFTER I DID
EVERYTHING I WAS REQUESTED TO DO FOR THEM.
MANY MEETINGS WITH THEM. AFTER I PLEAD GUILTY ON
JANUARY 25, 2008 THEY KEPT ME FOR ANOTHER 2 YEARS
GOING TO SO MANY DEBRIEFING DENIED ME FROM THE
PROPER TIME THAT I SHOULD BE SENTENCED, AND
SENTENCED ME 2 YEARS LATER ON FEBRUARY 9, 2010
HOW AND WHY THE UNITED STATES ATTORNEY DOES
NOT AGREE TO FIX THIS FOR ME. WHEN THE JUDGE
AT SENTENCING AWARE OF EVERYTHING I DID
FOR THE GOVERNMENT REQUESTED TO RE-SCHEDULE
MY SENTENCE FOR THE GOVERNMENT TO FILE A
SK. 1 FOR ME FOR A DOWN-DEPARTURE.

The Prosecutor own Answer was To The Judge
you could Proceed The Honor with The Sentencing
we will working on A Rule 35 For him.
This could ~~be~~ verify with The Sentencing
Transcript. IF I'm Lying To you The Honor
do As you please To me.
why I'm Being Treated Like This By The United-States
Attorney. All I Need is To Go Back To Haiti And
Spend A Little Time with my wife And kids
who's Being supported me And waiting for me
for over 16 long years
All I'm Asking where is The integrity of The
United-States Attorney
The Honor Truly From my Heart. NO MATTER which way
God lead you in TAKING your decision
your Effort on my BEHALF will ALWAYS Be
Remember And Very Much APPRECIATE
Thank-you so much. Happy Hollidays
May God Bless you And Protect you.

SERGE Edouard
58048004



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

NR:VTN
F. #2005R012106

271 Cadman Plaza East
Brooklyn, New York 11201

May 18, 2020

By ECF

Honorable Edward R. Korman
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Serge Edouard
Criminal Docket No. 05-400 (ERK)

Dear Judge Korman:

The government respectfully submits this letter in response to the defendant's pro se motion for a sentence reduction, pursuant to 18 U.S.C. § 3582(c)(2), on the basis that Amendment 782 of the United States Sentencing Guidelines ("Guidelines") applies to the defendant and lowers the defendant's previously calculated Guidelines range. For the reasons set forth herein, the government does not object to a limited resentencing.

Background

On May 20, 2005, the instant indictment (the "Indictment") was filed against the defendant, who was then in the custody of the Bureau of Prison in connection with a related criminal case in the Southern District of Florida. (ECF No. 1; Revised Presentence Investigation Report ("PSR") ¶¶ 10, 34, 51). The defendant was transferred to New York, by writ, on November 1, 2006. (PSR ¶ 51). The defendant made his initial appearance in EDNY on February 25, 2008 and pleaded guilty on the same date to conspiring to import cocaine into the United States, in violation of 21 U.S.C. § 963, pursuant to an agreement with the government. (ECF No. 5).

At the time of the defendant's sentencing on February 9, 2010 the applicable Guidelines prescribed his base offense level at 38 because he was accountable for the importation of at least 150 kilograms of cocaine from Haiti. (PSR ¶ 14). The defendant received a two-level enhancement for his role in the offense, pursuant to U.S.S.G. § 3B1.1(c), and a three level reduction for acceptance of responsibility. (PSR ¶¶ 17, 20).



U.S. Department of Justice

United States Attorney
Eastern District of New York

271 Cadman Plaza East
Brooklyn, New York 11201

June 10, 2019

By ECF

Honorable Edward R. Korman
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Serge Edouard
Criminal Docket No. 05-0400 (ERK)

Dear Judge Korman:

I am writing to clarify the position of the government with respect to Defendant's Motion to Correct Clerical Error Regarding Sentence to Accurately Provide Credit for Time Served ("Def. Mot."), filed on September 19, 2018. (ECF No. 27). The defendant has specifically requested that his judgment be amended to account for time served in the custody of the Bureau of Prisons ("BOP") in connection with a criminal prosecution in the Southern District of Florida ("SDFL"), while the instant case was pending in the Eastern District of New York ("EDNY").

In a letter to the court, dated March 4, 2019, the government respectfully requested that the defendant's motion be denied. The defendant filed a reply on May 31, 2019, and cited two cases – Alcantara v. Hollingsworth, 186 F. Supp. 3d 332 (D.N.J. 2016) and Walton v. Maye, No. 11-0844, WL 3423361 (W.D. Tex. 2011) – to support his argument that defendant is entitled to credit for time spent in custody in SDFL while awaiting trial in EDNY. (See ECF No. 33). The government agrees that those two cases support the defendant's argument and present factually similar scenarios to the one presented here; however neither are binding precedent and no similar holdings have been identified within the Second Circuit. The legal analysis and cases cited in the government's response of March 4, 2019, are therefore still applicable, and it remains the position of the government that defendant's motion should be denied.

Moreover, in the cases cited by the defendant in his reply of May 31, 2019, the district courts each considered and granted a habeas petition that had been filed pursuant to 28 U.S.C. § 2241, in the district where each petitioner was imprisoned. See Alcantara v. Hollingsworth, 186 F. Supp. 3d 332 (D.N.J. 2016) and Walton v. Maye, No. 11-0844, WL 3423361 (W.D. Tex. 2011). The defendant here is seeking relief under Rule 36.

SERGE EDWARD
58048-004

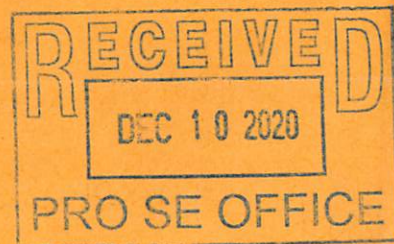


North Lake Correction Facility
P.O. Box 1500
BALDWIN MICHIGAN, 49304

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DEC 10 2020 ★

ERK KLYN OFFICE



HONORABLE EDWARD R. KORMAN
United States district Judge
Eastern district of New-york
225 CADMAN PLAZA EAST
Brooklyn N.Y 11201.

